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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,542	02/13/2004	David Michael Shackelford	SJO920030039US1	8989
31070	7590	09/14/2006	EXAMINER	
TIMOTHY N. ELLIS, PATENT ATTORNEY 8680 VIA MALLORCA, SUITE D LA JOLLA, CA 92037			TSAI, SHENG JEN	
			ART UNIT	PAPER NUMBER
			2186	

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/779,542

Applicant(s)

SHACKELFORD, DAVID MICHAEL

Examiner

Sheng-Jen Tsai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-26 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/13/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-26 are presented for examination in this application (10,779,542) filed on February 13, 2004.

Acknowledge is made of information disclosure document filed on 02/13/2004.

#### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7-9, 15-20 and 22-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Idei et al. (U.S. Patent Application Publication 2003/0177330).

As to claim 1, Idei et al. disclose **a signal bearing medium tangibly embodying a program of machine-readable instructions** [figures 5-6 and 10-11] **executable by a digital processing apparatus** [the management server, figure 1, 100] **to perform operations for restoring data** [to read-out data from the storage devices (figure 1, 110) and retrieve it to the servers (figure 1, 120); step 504 of figure 5], **the operations comprising:**

**receiving a request for at least a portion of the data** [based on a request from each server 120, performing a data write-in/data read-out into/from a designated physical storage area (paragraph 0029)];

**creating a directory entry for the data in a virtual file system** [figure 2 shows the directory entry of the data (virtual volume information for each of the virtual volume);

figure 3 shows the read-out history information and access history information regarding each entry of the virtual volume];

**allocating storage space for the data** [this is inherent for the data retrieve process as the retrieved data must be stored somewhere];

**initializing a block virtualization indicator to a value indicating that the data is not available** [The management server 100 retrieves the readahead history information 320 from the present point-in-time to a predetermined time-period ago, thereby checking whether or not the data that becomes the read-out target this time has been already read out onto the caches 114 in the storage devices 110 by a previous readahead processing (paragraph 0054; step 508, figure 5); If the data that becomes the read-out target this time has been already read out onto the caches 114, the server 100 continues the processing from the step 518. If not, the server 100 continues the processing from step 512 (paragraph 0055; step 510, figure 5)].

**writing a subset of the data to the storage space** [steps 514 and 522 of figure 5];  
**and**

**changing the block virtualization indicator to a value indicating that the data is available** [The management server 100 retrieves the readahead history information 320 from the present point-in-time to a predetermined time-period ago, thereby checking whether or not the data that becomes the read-out target this time has been already read out onto the caches 114 in the storage devices 110 by a previous readahead processing (paragraph 0054; step 508, figure 5); If the data that becomes the read-out target this time has been already read out onto the caches 114, the server

100 continues the processing from the step 518. If not, the server 100 continues the processing from step 512 (paragraph 0055; step 510, figure 5)].

As to claim 2, Idei et al. teach that **the signal bearing medium of claim 1, wherein the operations further comprise writing an additional subset of the data to the storage space** [If the data access is judged to be the portion of the read-out of the consecutive data, the control device 105 in the management server 100 acquires the physical addresses corresponding to virtual blocks where there exists a fixed amount of data that follows the data to be read out this time (paragraph 0033)].

As to claim 3, Idei et al. teach that **the signal bearing medium of claim 1, wherein the operations further comprise identifying portions of the data that have not been written to the storage space** [The management server 100 retrieves the readahead history information 320 from the present point-in-time to a predetermined time-period ago, thereby checking whether or not the data that becomes the read-out target this time has been already read out onto the caches 114 in the storage devices 110 by a previous readahead processing (paragraph 0054; step 508, figure 5); If the data that becomes the read-out target this time has been already read out onto the caches 114, the server 100 continues the processing from the step 518. If not, the server 100 continues the processing from step 512 (paragraph 0055; step 510, figure 5)].

As to claim 4, Idei et al. teach that **the signal bearing medium of claim 1, wherein the operations further comprise:**

**receiving a request for a part of the data that at least partially is not written to the storage space** [The management server 100 retrieves the readahead history information 320 from the present point-in-time to a predetermined time-period ago, thereby checking whether or not the data that becomes the read-out target this time has been already read out onto the caches 114 in the storage devices 110 by a previous readahead processing (paragraph 0054; step 508, figure 5); If the data that becomes the read-out target this time has been already read out onto the caches 114, the server 100 continues the processing from the step 518. If not, the server 100 continues the processing from step 512 (paragraph 0055; step 510, figure 5).];  
**retrieving and writing to the storage space the requested part of the data that is not written to the storage space** [steps 514 and 522 of figure 5]; and  
**responding to the request for the part of the data** [figure 5]

As to claim 7, Idei et al. teach that **the signal bearing medium of claim 4, wherein the operations further comprise retrieving an additional subset of the data, starting at a location sequentially after the retrieved data** [If the data access is judged to be the portion of the read-out of the consecutive data, the control device 105 in the management server 100 acquires the physical addresses corresponding to virtual blocks where there exists a fixed amount of data that follows the data to be read out this time (paragraph 0033)].

As to claim 8, Idei et al. teach that **the signal bearing medium of claim 4, wherein the operations further comprise retrieving an additional subset of the data, starting at a location wherein data is expected to be requested next** [the

case where the control device 105 predicts that the data read-out request from the server 120 will be a portion of a read-out request for consecutive data (paragraph 0049)].

As to claim 9, Idei et al. teach that **the signal bearing medium of claim 4, wherein the operations further comprise retrieving an additional subset of the data, starting at a randomly selected location** [step 604 of figure 6 checks if the data read-out request is for consecutive data or not (i.e., non-consecutive random location)].

As to claim 15, Idei et al. teach that **the signal bearing medium of claim 1, wherein the operation of creating a directory entry** [figure 2 shows the directory entry of the data (virtual volume information for each of the virtual volume); figure 3 shows the read-out history information and access history information regarding each entry of the virtual volume] **further comprises creating a pointer for the data in the virtual file system** [the virtual volume information shown in figure 2 provides the virtual block address, storage device lds, logical unit numbers and logical block address information that serve as pointers to related storage space; the read-out history information and readhead history information provide head virtual block address and bottom virtual block address information, which also serve as pointers to related storage space].

As to claim 16, Idei et al. teach that **the signal bearing medium of claim 1, wherein the data is restored from tape** [The mainstream structure of a storage

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device is now a structure where a magnetic disk circular-plate is used as the recording medium (paragraph 0007)].

As to claim 17, refer to "As to claim 1" presented earlier in this Office Action.

As to claim 18, refer to "As to claim 1" presented earlier in this Office Action.

As to claim 19, Idei et al. disclose **a computer system** [figure 1], **comprising:**  
**a memory** [memory, figure 1, 108 and 117]; **and**  
**a processing device** [the management server, figure 1, 100] **coupled to the**  
**memory** [memory, figure 1, 108]), **wherein the processing device is programmed**  
**to perform operations for restoring data** [to read-out data from the storage devices  
(figure 1, 110) and retrieve it to the servers (figure 1, 120); step 504 of figure 5], the  
operations comprising:  
**receiving a request for at least a portion of the data** [based on a request from each  
server 120, performing a data write-in/data read-out into/from a designated physical  
storage area (paragraph 0029)];  
**creating a directory entry for the data in a virtual file system** [figure 2 shows the  
directory entry of the data (virtual volume information for each of the virtual volume);  
figure 3 shows the read-out history information and access history information  
regarding each entry of the virtual volume];  
**allocating storage space for the data** [this is inherent for the data retrieve process as  
the retrieved data must be stored somewhere];  
**initializing a block virtualization indicator to a value indicating that the data is**  
**not available** [The management server 100 retrieves the readahead history

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information 320 from the present point-in-time to a predetermined time-period ago, thereby checking whether or not the data that becomes the read-out target this time has been already read out onto the caches 114 in the storage devices 110 by a previous readahead processing (paragraph 0054; step 508, figure 5); If the data that becomes the read-out target this time has been already read out onto the caches 114, the server 100 continues the processing from the step 518. If not, the server 100 continues the processing from step 512 (paragraph 0055; step 510, figure 5)].

**writing a subset of the data to the storage space** [steps 514 and 522 of figure 5];

**and**

**changing the block virtualization indicator to a value indicating that the data is available** [The management server 100 retrieves the readahead history information 320 from the present point-in-time to a predetermined time-period ago, thereby checking whether or not the data that becomes the read-out target this time has been already read out onto the caches 114 in the storage devices 110 by a previous readahead processing (paragraph 0054; step 508, figure 5); If the data that becomes the read-out target this time has been already read out onto the caches 114, the server 100 continues the processing from the step 518. If not, the server 100 continues the processing from step 512 (paragraph 0055; step 510, figure 5)].

As to claim 20, Idei et al. teach that **the computing system of claim 19, wherein the memory and the processing device are part of a host, and further comprising:**

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**a file virtualization meta data server coupled to the host** [Moreover, the storage capacity of the storage device itself, and the number of storage devices, file servers, or the like which are to be connected to a SAN (Storage Area Network)(paragraph 0002)];  
**and**

**a storage virtualization engine SAN volume controller coupled to the host** [the SAN (paragraph 0002; figure 1, 130 and 132)].

As to claim 22, refer to "As to claim 1" presented earlier in this Office Action.

As to claim 23, refer to "As to claim 1" presented earlier in this Office Action.

As to claim 24, refer to "As to claim 3" presented earlier in this Office Action.

As to claim 25, refer to "As to claim 4" presented earlier in this Office Action.

As to claim 26, Idei et al. teach that **the method of claim 23, wherein the operations further comprise associating with the data, metadata indicating access characteristics of blocks of the data** [for example, the storage device information provides the access characteristics information of "cache sizes"].

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Idei et al. (U.S. Patent Application Publication 2003/0177330), and in view of Murray et al. (U.S. 7,007,048).

As to claim 11, Idei et al. do not mention that **the operations further comprise backing up the data.**

However, it is well known in the art that the operations of “backing-up data” and “restoring data” are the two components commonly used in a storage system to provide redundancy, reliability and availability of the storage system.

Further, Murray et al. teach in their invention “System for Information life Cycle management Model for Data Migration and Replication” a system where a SAN is employed to perform operations such as disk mirroring, data backup, data restoration, data archival, data retrieval, data migration between storage devices, and data sharing (column 1, lines 19-21; column 7, lines 61-63).

Therefore it would have been obvious for persons of ordinary skills in the art at the time of the applicant’s invention to recognize the “backing-up data” operation is well known in the art and commonly adopted to complement the “restoring data” operation to provide redundancy, reliability and availability of the storage system, as demonstrated by Murray et al., hence lacking patentable significance.

As to claim 12, Idei et al. teach that **the signal bearing medium of claim 11, wherein the operation of backing up the data comprises storing information identifying the storage locations of each of a plurality of blocks of the data** [figures 2-4].

As to claim 13, Murray et al. teach that **the signal bearing medium of claim 11, wherein the operation of backing up the data further comprises storing metadata including access characteristics of blocks of the data, with the data** [File system

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metadata services provide the basis for a universal access method for user files on HFS SAN subsystems 22, independent of the underlying file system format. For a given a hostname, LUN 50 and filename, the Storage API will contact the ILM Shim on this host 46 to obtain the logical block numbers comprising the given file on the specified LUN 50. When forwarded by ILM Controller 54 to ILM Head 60 on corresponding HFS SAN subsystem 22, this metadata can then be used as a virtual "file name" for point to point file transfer operations (column 7, lines 49-57)].

As to claim 14, Idei et al. teach that **the signal bearing medium of claim 11, wherein the operations further comprise associating with the data, metadata indicating access characteristics of blocks of the data** [for example, the storage device information provides the access characteristics information of "cache sizes"].

As to claim 21, Murray et al. teach that the computing system of claim 20, further comprising a disk device and a backup device coupled to the storage virtualization engine SAN volume controller [column 5, lines 31-47; column 1, lines 19-21; column 7, lines 61-63].

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Idei et al. (U.S. Patent Application Publication 2003/0177330), and in view of Matsuda et al. (U.S. 7,020,668).

As to claim 5, Idei et al. do not mention that **the signal bearing medium of claim 4, wherein the requested part of the data that is not written to the storage space is retrieved on a priority basis.**

However, Matsuda et al. teach in the invention "Device for Retaining Important Data on a Preferential Basis" a system where data files in a storage device are ranked in the ascending order of importance for storing purpose in a networked storage environment [abstract; figures 3-4, 6-7 and 10].

Retrieving data on a priority basis allows data of higher importance to be restored first in a timely manner, and also allows better management of the capacity of the storage system [Matsuda et al., column 1, lines 40-54].

Therefore it would have been obvious for persons of ordinary skills in the art at the time of the applicant's invention to recognize the benefits of retrieving the data on a priority basis, as demonstrated by Matsuda et al., and to incorporate it into the existing method disclosed by Idei et al. to further improve the performance of the system.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Idei et al. (U.S. Patent Application Publication 2003/0177330), and in view of Lo et al. (U.S. Patent Application Publication 2002/0103943).

As to claim 6, Idei et al. do not mention that **the signal bearing medium of claim 4, wherein the operations further comprise indicating a busy condition.**

However, it is well known in the art and a common practice to provide busy/idle status signal to facilitate communications between the source and destination entities of a data transfer pair.

Further, Lo et al. teach in the invention "Distributed Storage management Platform Architecture" a SAN virtualization storage system where a busy status signal is

provided to indicate if a storage device is able to response to the data retrieving requests [paragraphs 0371 and 0374-0375].

Therefore it would have been obvious for persons of ordinary skills in the art at the time of the applicant's invention to recognize the use of a "busy/idle" status signal is well known in the art and commonly adopted to facilitate communications between the source and destination entities of a data transfer pair, as demonstrated by Lo et al., hence lacking patentable significance.

***Allowable Subject Matter***

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. ***Related Prior Art of Record***

The following list of prior art is considered to be pertinent to applicant's invention, but not relied upon for claim analysis conducted above.

- Takeda et al., (US Patent Application Publication 2004/0172509), "Data Processing System Including Storage Systems."
- Edsall et al., (US Patent Application Publication 2003/0172149), "Methods and Apparatus for Implementing Virtualization of Storage within a Storage Area Network."
- Mogi et al., (US Patent Application Publication 2003/0093439), "Methods and Apparatus for Relocating Data Related to Database Management System."

- Mogi et al., (US Patent Application Publication 2003/0229645), "Data Mapping Management Apparatus."

***Conclusion***

9. Claims 1-9 and 11-26 are rejected as explained above.

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shew-Fen Lin whose telephone number is 571-272-2672. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosian Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shew-Fen Lin  
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